

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

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UNITED STATES OF AMERICA,

Plaintiff(s),

v.

MARY MUSSO,

Defendant(s).

Case No. 2:12-CR-273 JCM (VCF)

ORDER

Presently before the court is defendant Marry Musso's emergency motion to extend turn-in date. (Doc. #80). The court will construe the motion as an emergency motion to continue defendant's self-surrender date.

On February 2, 2015, Ms. Russo plead guilty to count 3 for wire fraud in this case and count 1 for wire fraud in the consolidated case, 2:14-cr-130-JCM-NJK. On June 4, 2015, this court sentenced defendant to serve 51 months concurrently with the sentence in case 2:14-cr-130-JCM-NJK and 3 years of supervised release to run concurrently with the supervised release in case 2:14-cr-130-JCM-NJK. Defendant was ordered to self-surrender to the Bureau of Prisons by 12:00 P.M. on Friday, September 4, 2015.

Defendant now moves, on the eve of her self-surrender, for this court to extend the self-surrender date by 14 to 17 weeks to February of 2016. Ms. Russo indicates that she was recently diagnosed with a nodular lesion in her right lung. Supported by an affidavit from her primary care physician, Dr. Gene Zito, she states that the earliest available appointment for the surgery is

1 September 16, 2015. (Doc. # 80-1). Dr. Zito states that because of the “dangerously invasive”
2 nature of the surgery, she will need a full 14 to 17 weeks of recovery time, depending on whether
3 the growth’s potential malignancy requires chemotherapy. (*Id.*).
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5 At sentencing, the court considered Ms. Musso’s health condition at the time, and found
6 that the Bureau of Prisons’ medical facilities would be capable of providing adequate long and
7 short-term care to Ms. Russo. Upon consideration of her instant motion and Dr. Zito’s supporting
8 affidavit, the court consulted with the Bureau of Prison’s (the “bureau”) medical staff at FCI
9 Phoenix.
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11 The medical staff at FCI Phoenix reviewed Dr. Zito’s affidavit. Given the inability to
12 review the pertinent medical records and reports related to Ms. Musso’s potentially malignant
13 growth, the staff was forced to rely on Dr. Zito’s representations. Based on those representations,
14 as well as the bureau’s general practice of recommending against interruption of a course of
15 treatment, the doctors at FCI Phoenix concluded that they believe Ms. Musso’s self-surrender
16 would be an *inadvisable risk* at this time. This is because if Dr. Zito’s representations are accurate,
17 the bureau would have to, in essence, start the entire assessment process anew in order to find a
18 provider and schedule the surgery.
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20 The court, however, is skeptical about granting a continuance of over 5 months. The court
21 will instead continue Ms. Musso’s self-surrender for 3 months. This provides sufficient time to
22 complete surgery and begin recovery. The court orders Ms. Musso to provide a status report with
23 respect to the surgery, her recovery, and the exact amount of recovery time required once the
24 growth’s malignancy is determined. This status report will be due 1 month before defendant’s new
25 self-surrender date.
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1 Accordingly,

2 IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that defendant Mary
3 Musso's emergency motion to continue defendant's self-surrender date be, and the same hereby
4 is, GRANTED with respect to the continuance and DENIED with respect to the length of
5 continuance.
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7 IT IS FURTHER ORDERED that defendant Mary Musso shall self-surrender to the facility
8 designated by the United States Bureau of Prisons on Friday, December 4, 2015, before 12:00
9 P.M.

10 IT IS FURTHER ORDERED that defendant Mary Musso shall submit a status report on
11 the result of her surgery and her additional required recovery time by November 4, 2015.
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13 DATED September 3, 2015.

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15 UNITED STATES DISTRICT JUDGE
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